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BOZICEVIC FIELD & FRANCIS LLP  
200 MIDDLEFIELD RD  
SUITE 200  
MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of  
Rajendra S. Bhatnagar  
Application No. 09/816,737  
Filed: March 23, 2001  
Attorney Docket No. UCAL-223CON2

: DECISION ON APPLICATION  
: FOR PATENT TERM ADJUSTMENT  
:  
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This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT DETERMINATION," filed June 2, 2004.<sup>1</sup> Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred fifteen (115) days**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **one hundred fifteen (115) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 13, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified

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<sup>1</sup> This application for patent term adjustment was timely filed, as it was filed after the mailing of the Notice of Allowance and before payment of the issue fee.

application. The Notice stated that the patent term adjustment to date is two hundred forty-seven (247) days.

The Office initially determined a patent term adjustment of two hundred forty-seven (247) days based on an adjustment for PTO delay of one hundred thirty (130) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and one hundred thirty-two (132) days, pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by twelve (12) days and (3) days of Applicant delay, both pursuant to 37 C.F.R. §1.704(b).

The PTO delay of 132 days has been found to be incorrect. Applicant filed an RCE on March 2, 2004. In response, the Office mailed a Notice of Allowance on May 13, 2004, within the four month time period set forth in 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(3). Accordingly, no PTO delay should have been assessed for the mailing of the May 13, 2004 Notice of Allowance.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred fifteen (115) days** (130 days of PTO delay, reduced by 15 (12 + 3) days of Applicant delay).

To the extent that this letter was submitted to advise the Office of an error in Applicant's favor, the \$200.00 application fee under 37 C.F.R. §1.705(b) was not required, and has not been charged. The Office thanks Applicant for his good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

*Karen Ferriter*  
Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation